

REMARKS — TABLE OF CONTENTS

I. STATUS OF CLAIMS.....	6
II. CORRECTION: REPLACEMENT DRAWINGS ARE SUBMITTED HEREWITH TO CORRECT DRAWING SHEET OBJECTIONS	6
III. CORRECTION: CLAIM OBJECTIONS HAVE BEEN ADDRESSED; FURTHER EXAMINATION IS RESPECTFULLY REQUESTED	7
IV. ARGUMENT: 35 U.S.C. § 112 ISSUES HAVE BEEN ADDRESSED; NOTICE OF ALLOWANCE IS RESPECTFULLY REQUESTED	7
V. CONCLUSION	7

STATUS OF CLAIMS

Claims 1-12 were pending at the time of the Office Action (16 February 2007) and were part of the Application filed on 26 June 2003.

Claims 9-11 are objected to because of informalities in language. *See* Office Action, p. 3. Claims 1-12 stand rejected under 35 U.S.C. 112, Second Paragraph, as being unpatentable due to indefiniteness for “particularly point[ing] out and distinctly claim[ing] the subject matter which applicant regards as the invention.” *See* Office Action, pp. 3-6.

Without any prejudice or disclaimer, moreover, Applicant hereby withdraws claims 7 and 12 and adds new claim 13. Claims 1, 4-6 and 8-11 are amended. Claims 1-13 remain pending. These changes were made to further clarify patentable subject matter set forth in the specification as originally filed. No new matter has been added.

I. CORRECTION: REPLACEMENT DRAWINGS ARE SUBMITTED HEREWITH TO CORRECT DRAWING SHEET OBJECTIONS

The USPTO has objected to the drawings as being illegible. *See* Office Action, pp. 2-3. Corrected drawing sheets are submitted herewith and are marked REPLACEMENT SHEET and NEW SHEET, respectfully.

It is noted that FIG. 2 has been moved to a second page (“new sheet”). Originally, the figures (FIG. 1 and FIG. 2) were submitted on a single sheet. A marked up drawing sheet is not submitted herewith. If the USPTO desires a “marked-up” drawing sheet pursuant to 37 C.F.R. 1.121(d)(2), Applicant will happily comply. No new matter has been entered in the drawings. In view of the foregoing, Applicant respectfully requests acceptance of the drawing sheets.

**II. CORRECTION: CLAIM OBJECTIONS HAVE BEEN ADDRESSED;
FURTHER EXAMINATION IS RESPECTFULLY REQUESTED**

Claims 9-11 are herein amended to correct the informalities noted by the USPTO. In view of the foregoing, Applicant accordingly requests consideration and subsequent allowance of the claims.

**III. ARGUMENT: 35 U.S.C. § 112 ISSUES HAVE BEEN ADDRESSED; NOTICE
OF ALLOWANCE IS RESPECTFULLY REQUESTED**

Claims 1, 4-6 and 8-11 are herein amended. These amendments sufficiently clarify the subject matter so as to enable the USPTO to examine the claims on their merits in view of 35 U.S.C. 102, *et seq.* In view of the foregoing, Applicant respectfully requests consideration and subsequent allowance of the claims.

IV. CONCLUSION

Applicant may have during the course of prosecution cancelled and/or amended one or more claims. Applicant notes that any such cancellations and/or amendments will have transpired (i) prior to issuance and (ii) in the context of the rules that govern claim interpretation during prosecution before the United States Patent and Trademark Office (PTO). Applicant notes that the rules that govern claim interpretation during prosecution form a radically different context than the rules that govern claim interpretation subsequent to a patent issuing. Accordingly, Applicant respectfully submits that any cancellations and/or amendments during the course of prosecution should be held to be tangential to and/or unrelated to patentability in the event that such cancellations and/or amendments are viewed in a post-issuance context under post-issuance claim interpretation rules.

Insofar as that the Applicant may have during the course of prosecution cancelled/amended claims sufficient to obtain a Notice of Allowability of all claims pending, Applicant may not have during the course of prosecution explicitly addressed all rejections and/or statements in Office Actions. The fact that rejections and/or statements may not be explicitly addressed during the course of prosecution should NOT be taken as an admission of any sort, and Applicant hereby reserves any and all rights to contest such rejections and/or

statements at a later time. Applicant hereby gives notice that it may intend to file and/or has filed a continuing application in order prosecute such cancelled/unamended claims.

With respect to any cancelled claims, such cancelled claims were and continue to be a part of the original and/or present patent application(s). Applicant hereby reserves all rights to present any cancelled claim or claims for examination at a later time in this or another application. Applicant hereby gives public notice that any cancelled claims are still to be considered as present in all related patent application(s) (e.g. the original and/or present patent application) for all appropriate purposes (e.g., written description and/or enablement).

Should this case go to appeal, Applicant reserves the right to submit argument, rebuttal evidence, or legal authority in the instance the Board of Patent Appeals and Interferences finds that the USPTO has met its burden in establishing a *prima facie* case of unpatentability of the various appealed claims. Applicant further reserves the right to submit argument, rebuttal evidence, or legal authority if new claim interpretations or definitional citations are raised on appeal. The fact that argument, rebuttal evidence, or legal authority may not have been explicitly discussed during the course of prosecution should NOT be taken as an admission or waiver of any sort, and Applicant hereby reserves any and all rights to discuss (e.g. make explicit, produce, or explain) such rebuttal evidence at a later time.

The USPTO is encouraged to contact the undersigned by telephone at (408) 457-9806 to discuss the above and any other distinctions between the claims and the applied references, if desired. Also, if the USPTO notes any informalities in the claims, it is encouraged to contact the undersigned to expediently correct such informalities.

Respectfully submitted,

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ATTACHMENT(S):

Replacement Drawing Sheets (2)

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